

Mary Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2nd Floor  
Boston, MA 02110

December 16, 2005

RE: Western Massachusetts Electric Company, D.T.E. 05-91

Dear Secretary Cottrell:

On December 1, 2005 Western Massachusetts Electric Company ("WMECO" or "the Company") submitted a compliance filing pursuant to a settlement approved by the Department of Telecommunications and Energy ("Department"). *Western Massachusetts Electric Company*, DTE 04-106 ("Settlement Agreement"). On December 6, 2005, the Department issue a notice requesting comments. The Attorney General submits this letter as his comments.

In its compliance filing, the Company requests approval of the \$3 million distribution rate increase under Article II of the Settlement. The Company also seeks recovery through its transmission rates for exogenous costs associated with the receipt of Special Constraint Resource ("SCR") charges by ISO-NE in June 2005 and the receipt of Reliability Must Run ("RMR") charges by ISO-NE in August 2005. The Settlement Agreement states that WMECO's distribution rates, transition charge, and transmission rates in 2005 and 2006 will be designed to result in an overall rate decrease for its customers. Article I, Settlement Agreement. Article II of the Settlement Agreement permits the Company to increase its distribution rates by \$3 million in 2006, and Article VI allows WMECO to adjust its rates for exogenous factors. The effect of the exogenous factor adjustment is to increase the sum of the distribution rate, transition charge, and transmission rate above what the sum of those rates had been prior to the Settlement Agreement.

The Company seeks to accomplish the \$3 million increase in distribution rates by imposing a \$0.0007 per kWh charge. The effect of the distribution rate increase is shown on Attachment 3 to the filing, but there appear to be errors in this table. For example, the Company has used 1997 billing determinants and the effect of the rate changes on the "Contracts" class appears to be incorrect. The Department should open an investigation to examine the reason for these discrepancies.

The Company bears the burden of proof to demonstrate that it is entitled to exogenous cost recovery. *Boston Gas Company*, DTE, 03-40, p. 490 (2003); *Blackstone Gas Company*,

DTE 04-79, p. 4 (2004). *See also* 220 C.M.R. § 1.10(1) (requirements for evidence). The Company's proposed adjustments do not meet the test for exogenous costs as required by the Settlement Agreement and the Company has not submitted evidence to support a decision in its favor. According to the settlement "WMECO will adjust its rates for exogenous factors **on the same terms** as those factors allowed for the Boston Gas Company in D.T.E. 03-40 and the Blackstone Gas Company in 04-79." Settlement Agreement, Article VI (emphasis added). Both the Blackstone Gas and Boston Gas exogenous factor adjustments are limited to factors that are "positive or negative cost changes actually beyond the Company's control **and** not reflected in GDP-PI [the Gross Domestic Product Productivity Index]." *Boston Gas Company*, DTE, 03-40, p. 490; *Blackstone Gas Company*, DTE 04-79, p. 4 (emphasis added). The Company claims it need not comply with the GDP-PI requirement because "WMECO has no such factor in place." Compliance Filing Cover Letter, p. 3. The plain language of the agreement requires the use of the GDP-PI here since both Boston Gas and Blackstone Gas use the GDP-PI in determining their exogenous factors. The Settlement Agreement expressly requires that the parties interpret its terms for customer benefit. Preamble, Settlement Agreement ("[T]he Parties intend that customers receive the full value of the settled issues, and not some substitute regulatory treatment of lesser value, and agree that no terms of this Settlement or supporting schedules and calculations will be used or interpreted to diminish, in any way, the intended customer benefit related to this Agreement"). Interpreting the Settlement Agreement to eliminate the GDP-PI element of the test diminishes customer benefit by increasing the costs that would qualify for exogenous recovery through rates in this proceeding.

The increase in the price of electricity that the Company claims drives the exogenous costs higher are not unique to the local electric distribution industry. An increase in the costs of such a basic commodity as electricity in the Northeast affects the regional economy in general, and so are reflected in the GDP-PI formula. *See* NSTAR, D.T.E. 03-47, pp. 32-33 (2003) (increased pension expense does not qualify as an exogenous cost because market volatility effects all industries, not just electric and gas). For this reason, the Department should disqualify the RMR and SCR costs from exogenous recovery.

The Company also has not shown that the proposed exogenous costs are beyond the Company's control or result from regulatory changes after the effective date of the Settlement Agreement. There is no evidence at all that the Company has taken any steps to protect customers from RMR agreements by opposing them in regulatory proceedings specifically on behalf of Massachusetts customers. The Company relies on the ISO-NE Tariff No. 3 as the basis for the proposed exogenous SCR costs. The tariff, however, specifically provides SCR Service to allow distribution companies, like WMECO, the ability to call on resources necessary to maintain local area reliability. Attachment A (ISO New England Inc., FERC Electric Tariff No. 3, Open Access Transmission Tariff, Section II--Schedule 19--Special Constraint Resource Service). Then SCR costs, then, appear to be incurred at the request of the utility. WMECO has failed to explain who requested SCR Service, the basis for this request and the economic analysis supporting the need for SCR costs instead of less costly alternative solutions to local reliability problems. Furthermore, there is no evidence whether the RMR costs are related to the SCR

requirements, which are based on local distribution or transmission problems within WMECO's control. Finally, the Company, therefore, can not claim the RMR or SCR costs as exogenous.<sup>1</sup>

There is no explanation of how the Company estimated the RMR and SCR charges for 2006. WMECO also does not explain why the Company expects the RMR charges in 2006 to be six times the level in 2005.<sup>2</sup>

The Department should, in the best interests of customers, deny the Company's requests for exogenous cost recovery. The Department should open an investigation, including discovery, hearings and briefs, into the Company's calculation for its recovery of the \$3 million distribution increase and the proposed RMR and SCR costs.<sup>3</sup>

Respectfully submitted,

Alexander J. Cochis  
Assistant Attorney General

cc: Service list

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<sup>1</sup> The Attorney General incorporates the arguments of the Western Massachusetts Customers Group ("WMCG") against the classification of the RMR and SCR charges as exogenous. WMCG Comments, pp. 2-3.

<sup>2</sup> Assuming that the implementation of SCR and RMR charges meets the definition of exogenous events, the calculation of the new transmission rate goes beyond recognizing the effect of the SCR and RMR charges. The calculation of the transmission tracker to be effective January 1, 2006 is shown on Attachment 8 to the compliance filing. This "exogenous cost factor" captures not only the effect of the RMR and SCR charges, but of all differences between transmission revenues and transmission expenses in 2005 and 2006, including the effect of general expense increases that cannot be characterized as exogenous.

<sup>3</sup> The Department can order the rate changes into effect, subject to refund pending an investigation.